



STAFF REVIEW

Variance Case #: V2015-03

Legistar #: 20141321

City Council Hearing: Wednesday, January 14, 2015 – 7:00 p.m.

Property Owner: Chuck Clancy Ford of Marietta, LLC
(successor by merger to Chuck Clancy Ford of Marietta, Inc.)
200 SW 1st Avenue
Fort Lauderdale, FL 33301

Applicant: Hodgen Construction & Development Group, Inc.
17160 Royal Palm Boulevard, Suite 4
Weston, FL 33326

Agent: J. Kevin Moore, Esq.
Moore, Ingram, Johnson, & Steele, LLP
326 Roswell Street
Marietta, GA 30060

Address: 880 Cobb Parkway South

Land Lot: 05730 **District:** 17 **Parcel:** 0060

Council Ward: 1A **Existing Zoning:** CRC (Community Retail Commercial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to allow a nonconforming billboard sign remain on a property undergoing redevelopment. [§714.06 (C.6)]
2. Variance to allow a general advertising sign outside of the area within 100 feet of the right of way of Interstate 75. [§714.04 (G)]
3. Variance to waive the requirement that a general advertising sign be regulated as a principal use. [§714.04 (G.1)]
4. Variance to allow a billboard to be located within 500 feet of a school. [§714.04 (G.2)]
5. Variance to allow a tri-vision panel on the north facing panel of the billboard. [§714.04 (G.4), §714.06 (A.6), §714.06 (A.7)]
6. Variance to allow a general advertising sign to be located within 1,000 foot radius of another general advertising sign. [§714.04 (G.5)]
7. Variance to reduce the front setback for a general advertising sign face from 30' to 29'. [§714.04 (G.8)]
8. Variance to allow a general advertising sign be located on a lot upon which a building and signage is located. [§714.04 (G.9) and §714.06 (A.11)]
9. Variance to allow a general advertising sign be located closer to a permanent structure than the distance that is equal to the height of the sign. [§714.04 (G.10)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



Subject Property – North Facing (tri-vision) panel



Subject Property – South Facing panel (static)



Property frontage along Cobb Parkway South

Staff Review:

Hodgen Construction & Development Group, Inc. is requesting variances in order to redevelop the property located at 880 Cobb Parkway South. The subject property is zoned CRC (Community Retail Commercial) and is 1.64 acres in size. The properties to the north, south, and across Cobb Parkway South to the east are also zoned CRC and contain various auto-oriented businesses. Life College owns the property to the rear, which is zoned LI (Light Industrial). The applicant is requesting multiple variances for this property in order to construct a new automobile dealership. The property is currently used as a parking lot and contains a two sided billboard with a mechanically changing panel on the north facing side.

The applicant is proposing to redevelop the entire site for use as a Team Nissan Pre-Owned automobile dealership, but wishes to retain the existing general advertising sign (billboard). Section 714.06 (C)(5) states *“where there are existing nonconforming signs on a parcel in which there will be a renovation of the primary structure exceeding 50% of its replacement cost or there is redevelopment of a vacant lot, the entire sign (in each case) shall be required to come into compliance with the City of Marietta Sign Ordinance.”* (In addition, should the current building be completely removed, Section 718.03 includes the statement that *“a review shall be required for any proposed use of land before any building permit is issued or any improvement, grading or alteration of land or building commences to determine compliance with all provisions of the zoning ordinance”*.)

The following are regulations that would prohibit the construction of the existing billboard on the subject property if it were to be built brand new. New billboards are prohibited from:

- Being located along Cobb Parkway (or anywhere other than along I-75).
- Being located on the same parcel as another use.
- Within the building setbacks, although certain provisions are made for the panel's projection into the setbacks.
- Within 500 feet of a school, residential zoning district, church, park, public building, or cemetery. A property owned and operated by Life University is located directly to the rear and within 500 feet of the structure.
- Within a distance of another structure that is less than or equal to the height of the billboard (fall zone). Although the proposed building appears to be outside of the billboard's fall zone, there is a building on the property to the south that appears to within the billboard's fall zone.

The following are similar cases that have been heard by City Council in the past:

- **V2006-03 – 155 Cobb Parkway South:** This variance request would have allowed a billboard structure remain on the parcel after the site was redeveloped into the current Arby's and Popeye's restaurants and allow the Arby's building be constructed within 15' of the billboard. This request was denied and the billboard was demolished.

- **V2010-08 – 1440 Field Park Circle:** This variance request involved allowing an existing billboard structure to remain on a parcel with a new classroom facility used by the Atlanta Adventist Academy's Marietta campus. The billboard structure was initially indicated as "to be removed" on the site plans for the parking lot and, on the site plans for the construction of the facility, the billboard was not shown. As a result, variances were applied for to allow both the billboard and the school building remain. This request was denied.
- **V2012-12 – 2195 Cobb Parkway South:** City Council approved variances for this property that would allow the construction of a new National Tire & Battery Auto Center on a parcel containing an existing billboard structure. The stipulations approved with the variances require the billboard structure to be removed by January 30, 2019. If removed by December 31, 2015, the sign may qualify towards the digital panel exchange program.
- **V2012-22 – 9 Cobb Parkway North:** City Council approved variances allowing the construction of a new business on this parcel despite the presence of an existing billboard on the property. However, the approved stipulations will require the billboard structure to be removed within 60 days (or sooner) of May 31, 2016.
- **V2013-38 – 591 South Marietta Parkway:** The existing billboard on this parcel was allowed to remain while the site was redeveloped for a Zaxby's. However, the approved stipulations will require the billboard structure to be removed within 60 days (or sooner) of August 31, 2031.

Unrelated to the billboard variance request, Public Works has the following general development comments:

- Drive aisles must be 24' plus curb and gutter on both sides – 20' of asphalt.
- GA DOT will likely require right in/right out only for the new access

PUBLIC NOTICE OF VARIANCES

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following Variances for a recommendation to the City Council at their meeting on **Wednesday, January 14, 2015, 7:00 p.m.**, City Hall, for a final decision to be made.

V2015-03 [VARIANCE] CHUCK CLANCY FORD OF MARIETTA, LLC requests variances for property located in Land Lot 05730, District 17, Parcel 0060, 2nd Section, Marietta, Cobb County, Georgia and being known as 880 Cobb Parkway South, currently zoned CRC (Community Retail Commercial). Variance to allow a nonconforming billboard sign remain on a property undergoing redevelopment. Ward 2B.

A description and plat of the property sought for the rezoning and future land use assignment are on file in the Planning and Zoning Office, City Hall, and is available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

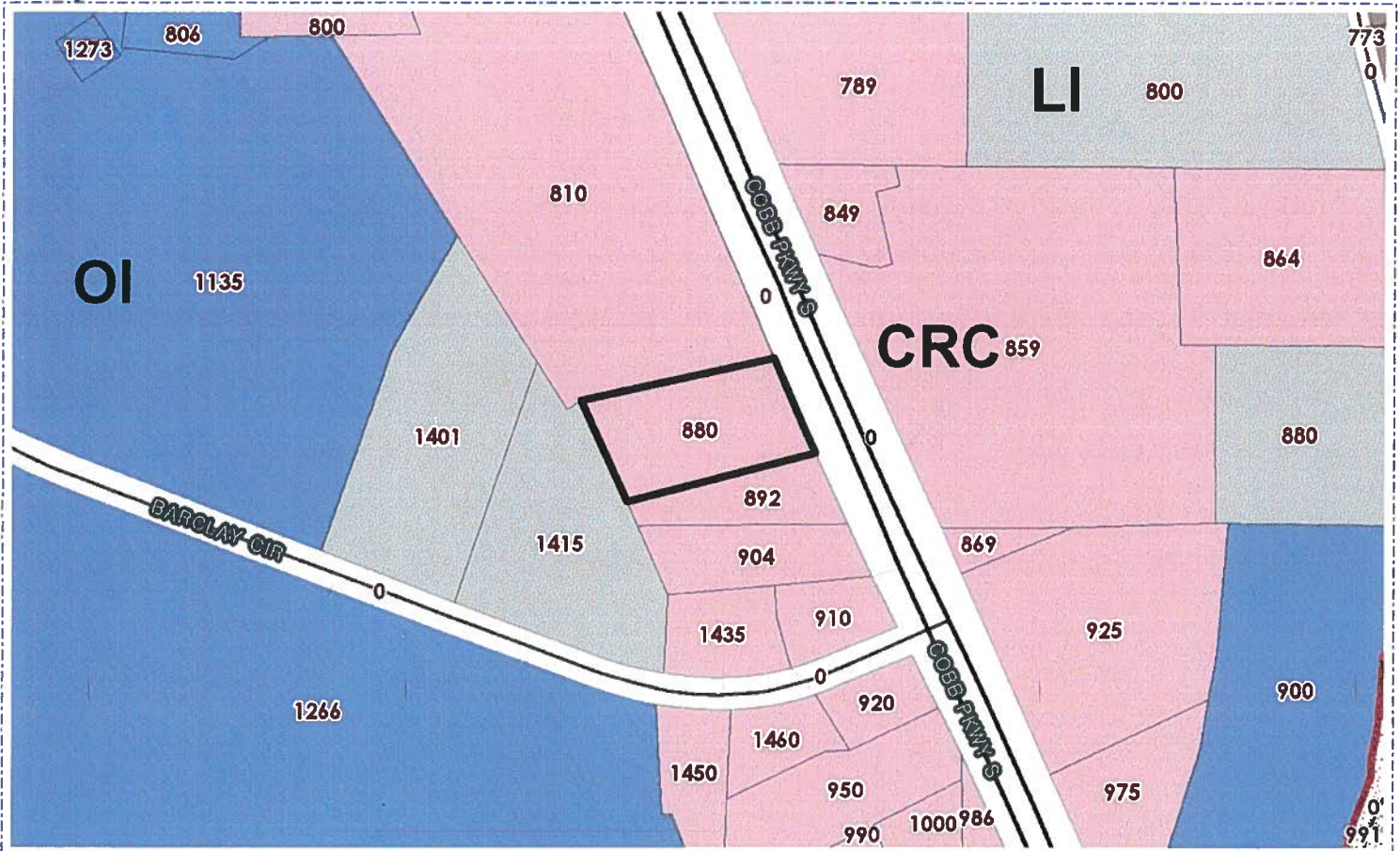
For additional information please call the Planning and Zoning Office (770) 794-5440.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call Mr. Patrick Henley, ADA Coordinator, at 770-794-5558 (voice) or 770-794-5560 (TDD) no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060



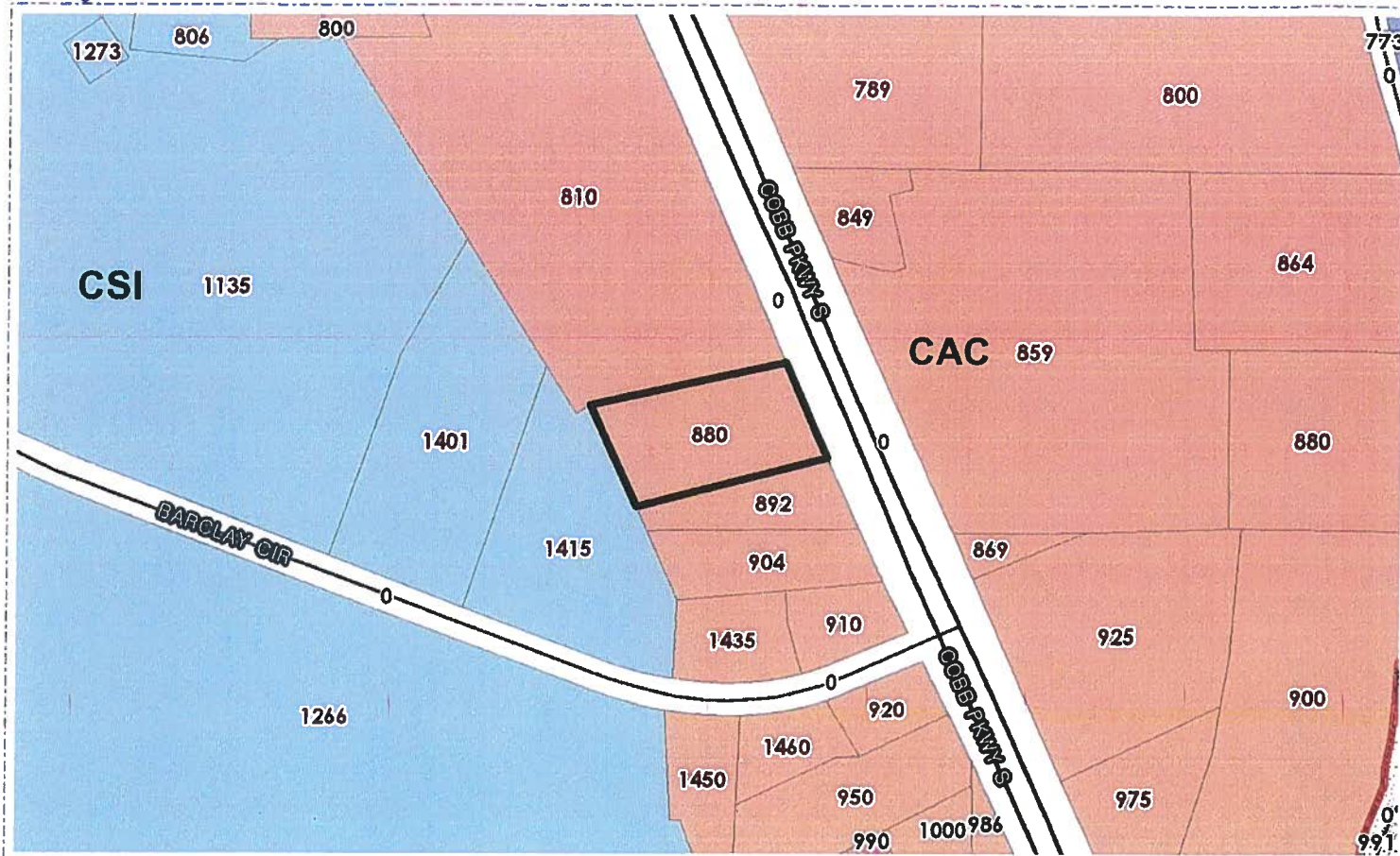
Variance



















Address	Parcel Number	Acreage	Ward	Zoning	FLU
880 COBB PKWY S	17057300060	1.623	1A	CRC	CAC
Property Owner:	Chuck Clancy Ford of Marietta	<div>Zoning Symbols</div> <div><div><div></div></div><div>Railroads</div><div><div></div></div><div>City Limits</div><div><div></div></div><div>Cobb County Pockets</div><div><div></div></div><div>NA</div><div><div></div></div><div>R1 - Single Family Residential (1 unit/acre)</div><div><div></div></div><div>R2 - Single Family Residential (2 units/acre)</div><div><div></div></div><div>R3 - Single Family Residential (3 units/acre)</div><div><div></div></div><div>R4 - Single Family Residential (4 units/acre)</div><div><div></div></div><div>RA4 - Single Family Residential - Attached</div><div><div></div></div><div>RA6 - Single Family Residential - Attached</div><div><div></div></div><div>RA8 - Single Family Residential - Attached</div><div><div></div></div><div>MHP - Mobile Home Park</div><div><div></div></div><div>PRD-SF - Planned Residential Dev. Single Family</div><div><div></div></div><div>RM8 - Multi Family Residential (8 units/acre)</div><div><div></div></div><div>RM10 - Multi Family Residential (10 units/acre)</div><div><div></div></div><div>RM12 - Multi Family Residential (12 units/acre)</div><div><div></div></div><div>RHR - Residential High Rise</div><div><div></div></div><div>PRD-MF - Planned Residential Dev Multi Family</div><div><div></div></div><div>NRC - Neighborhood Retail Commercial</div><div><div></div></div><div>CRC - Community Retail Commercial</div><div><div></div></div><div>RRC - Regional Retail Commercial</div><div><div></div></div><div>PCD - Planned Commercial Development</div><div><div></div></div><div>LI - Light Industrial</div><div><div></div></div><div>HI - Heavy Industrial</div><div><div></div></div><div>PID - Planned Industrial Development</div><div><div></div></div><div>MXD - Mixed Use Development</div><div><div></div></div><div>CBD - Central Business District</div><div><div></div></div><div>OIT - Office Institutional Transitional</div><div><div></div></div><div>LRO - Low Rise Office</div><div><div></div></div><div>OI - Office Institutional</div><div><div></div></div><div>OS - Office Services</div><div><div></div></div><div>OHR - Office High Rise</div></div>			
Applicant:	Hodgen Construction				
City Council Hearing Date:	1/14/15				
Acquisition Date:					
Case Number:	V2015-03				
City of Marietta Planning & Zoning					



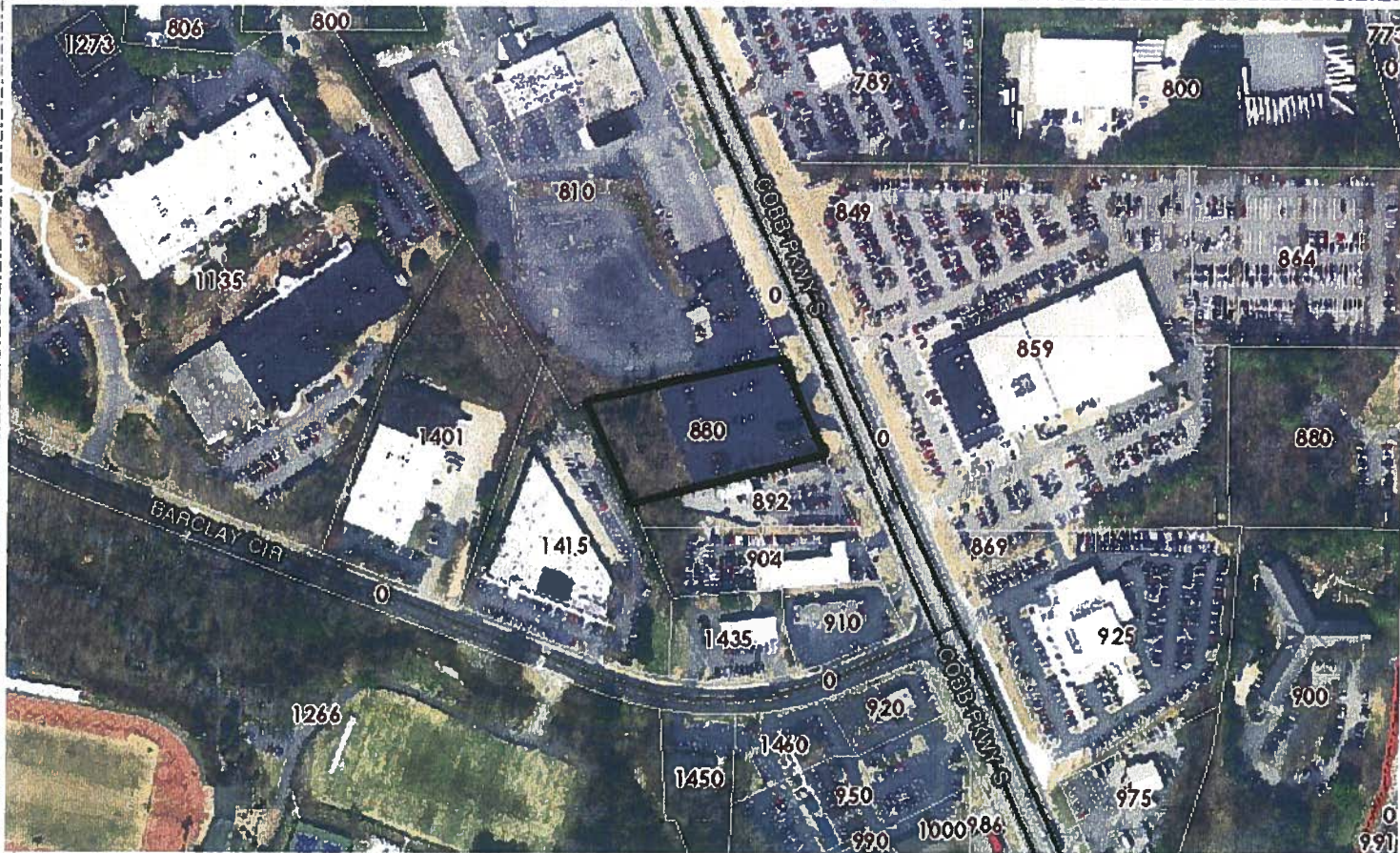
Future Land Use



Address	Parcel Number	Acreage	Ward	Zoning	FLU
880 COBB PKWY S	17057300060	1.623	1A	CRC	CAC
Planning Commission Hearing Date:				Future Land Use Symbols --- Railroads  City Limits  Cobb County Pockets  RAC - Regional Activity Center  CAC - Community Activity Center  NAC - Neighborhood Activity Center  CBD - Central Business District  MXD - Mixed Use Development  CSI - Community Service and Institutional  HDR - High Density Residential  MDR - Medium Density Residential  LDR - Low Density Residential  OSC - Open Space / Conservation  PR - Parks / Recreation  IW - Industrial Warehousing  IM - Industrial Manufacturing  TCU - Transportation and Utilities	
City Council Hearing Date: 1/14/15					
Future Land Use: CAC					
Case Number:					
Comments:					
City of Marietta Planning & Zoning					



Aerial Map



Address	Parcel Number	Acreage	Ward	Zoning	FLU
880 COBB PKWY S	17057300060	1.623	1A	CRC	CAC
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<div> <div>BZA Hearing Date:</div> <div>Case Number: V2015-03</div> </div>					
<div> <div>Comments:</div> <div></div> </div>					
<div> <div>City of Marietta Planning & Zoning</div> </div>					

Legend

- Railroads
- City Limits
- Cobb County Pockets

